

EXHIBIT 76

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY FORTH, DONNA BAILEY,
LISA BULLARD, RICARDO GONZALES,
CYNTHIA RUSSO, TROY TERMINE,
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 38
HEALTH AND WELFARE FUND,
INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 295-295C WELFARE
FUND, AND STEAMFITTERS FUND
LOCAL 439, on Behalf of
Themselves and All Others
similarly Situated,

Plaintiffs,

VS.

WALGREEN CO.,

Defendant.

The videotaped deposition of EDWARD FOX, taken before Maria S. Winn, CSR, RPR and CRR, pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, at Reed Smith, 10 South Wacker Drive, Suite 4000, Chicago, Illinois, commencing at 9:22 a.m. on May 7, 2019.

1 PRESENT:

2
3 SCOTT + SCOTT ATTORNEYS AT LAW, LLP
4 By MR. JOSEPH P. GUGLIELMO
5 230 Park Avenue - 17th Floor
6 New York, New York 10169
7 (212) 223-6444
8 jguglielmo@scott-scott.com
9 dbroggi@scott-scott.com
10 appeared on behalf of the Plaintiffs;

11 REED SMITH, LLP
12 By MR. MICHAEL S. LEIB and
13 MS. SELINA P. COLEMAN
14 MR. ANTHONY R. TODD
15 10 South Wacker Drive
16 Chicago, Illinois 60606
17 (312) 207-3928
18 mleib@reedsmith.com
19 scoleman@reedsmith.com

20 and

21 MILLIMAN, INC.
22 By MR. JASON GOMBERG
23 15800 W. Bluemound Road - Suite 100
24 Brookfield, Wisconsin 53005-6069
 (262) 784-2250
 jason.gomberg@milliman.com
 appeared on behalf of the Defendant;

25 ALSO PRESENT:

26 MR. DANIEL FROMAN, Legal Videographer.

1 discuss the allegations in the second amended
2 complaint with you, or anyone at the Fund, before
3 it was filed?

4 A I do not -- I do not remember.

5 Q Prior to being made aware that you were
6 going to be deposed in this case, when was the
7 last time you spoke to counsel about this case?

8 A Probably -- that I remember recently, was
9 probably in the January/February time frame.

10 Q Was that about your deposition?

11 A No.

12 Q Do you -- strike that.

13 When did the Fund first learn that
14 Walgreens had a prescription savings club?

15 A The Fund itself never knew it. I mean,
16 we don't, you know, go out to...

17 Q Well, you know about it now, right?

18 A Yes.

19 Q So when was the first time that the Fund
20 learned about the Walgreens prescription savings
21 club?

22 A I mean, the Fund would have learned about
23 it when we were approached from Scott & Scott
24 concerning the possible litigation.

1 over the pharmacy's usual and customary price,
2 correct?

3 A That's what it states.

4 Q Earlier, you said that you thought the
5 U&C price includes all discounts.

6 This is a discount, isn't it?

7 A I mean, I'm not familiar with how the
8 actual program works. I was aware that the card
9 existed. But you know, why they would state the
10 32 percent, I am unaware.

11 Q Is it fair to say, then, anybody who was
12 using this card for those prescription fills, the
13 Fund paid zero?

14 A Well, the Fund wouldn't have paid
15 anything anyhow, because the person was not
16 eligible for the healthcare.

17 Q I think you already told me, or you
18 told -- testified today that the first time you
19 learned about the -- or the Fund learned about the
20 Walgreens program, the PSC program, was through
21 counsel, correct?

22 A Correct.

23 Q So is it fair to say that's when the Fund
24 became aware of the alleged discrepancy between

1 the price Walgreens charged its beneficiaries for
2 PSC generics and the PSC price?

3 A Yes.

4 Q What actions, if any, did the Fund do
5 once it became aware of this alleged discrepancy,
6 other than file this lawsuit?

7 A Nothing.

8 Q Did it preclude its members from using
9 Walgreens?

10 A No.

11 Q Did it take any steps to discourage its
12 members from using Walgreens?

13 A No.

14 Q It Walgreens still a retail pharmacy that
15 the Fund beneficiaries can use?

16 A Yes.

17 Q The Fund, however, could have prohibited
18 its members from using Walgreens, correct?

19 MR. GUGLIELMO: Objection, form.

20 A Yes.

21 BY MR. LEIB:

22 Q If the Fund believes Walgreens is
23 overcharging it for PSC generics, why, in the time
24 since December 21, 2016, has the Fund not

1 We have no further questions.

2 MR. LEIB: With that, I think we can
3 complete the deposition.

4 Thank you, Mr. Fox.

5 THE VIDEOGRAPHER: This marks the end of
6 Media Set 7 and the end of this deposition at
7 6:44 p.m.

8 (WITNESS EXCUSED)

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1 STATE OF ILLINOIS)

) SS:

2 COUNTY OF C O O K)

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4 The within and foregoing deposition of
5 the aforementioned witness was taken before
6 MARIA S. WINN, CSR, RPR and CRR, at the place,
7 date and time aforementioned.

8 There were present during the taking of
9 the deposition the previously named counsel.

10 The said witness was first duly sworn and
11 was then examined upon oral interrogatories; the
12 questions and answers were taken down in shorthand
13 by the undersigned, acting as stenographer; and
14 the within and foregoing is a true, accurate and
15 complete record of all of the questions asked of
16 and answers made by the aforementioned witness, at
17 the time and place hereinabove referred to.

18 The signature of the witness was not
19 waived, and the deposition was submitted,
20 pursuant to Rule 30(e) and 32(d)4 of the Rules
21 of Civil Procedure for the United States District
22 Courts, to the deponent per copy of the attached
23 letter.
24

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The undersigned is not interested in the within case, nor of kin or counsel to any of the parties.

In witness whereof, I have hereunto set
my hand and seal of office this day, May 8, 2019.

Maria S. Winn

CSR No. 084-003784 - Expiration Date: May 31, 2019